

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

RICKEY PHILLIPS, as Administrator of the)	
Estate of SUSAN PHILLIPS, deceased,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	2:06-CV-00084-WKW
PACTIV CORPORATION and LOUISIANA-)	
PACIFIC CORPORATION,)	
)	
Defendants.)	
_____)	

**DEFENDANTS' JOINT OPPOSITION TO
PLAINTIFF'S MOTION TO CONSOLIDATE**

Defendants Pactiv Corporation ("Pactiv") and Louisiana-Pacific Corporation ("Louisiana-Pacific") jointly oppose Plaintiff's "Motion to Consolidate." Defendants state the following grounds for their opposition:

1.

This Court has set a Status Conference in this matter for May 23, 2006.

2.

Pactiv and Louisiana-Pacific each filed a Motion to Dismiss on March 22, 2006. Both motions seek dismissal of Plaintiff's Complaint in whole or in part or, in the alternative, for a more definite statement of Plaintiff's claims as to each Defendant. These motions are currently pending.

3.

This Court's rulings on Defendants' motions will determine which of Plaintiff's claims, if any, will remain in this lawsuit against each Defendant. The Court's rulings will also likely impact the scope of discovery needed. Accordingly, Plaintiff's "Motion to Consolidate" is premature given Defendants' pending Motions to Dismiss.

4.

Moreover, Plaintiff's "Motion to Consolidate" ambiguously requests consolidation of this case with nine others "for purposes of discovery and pre-trial motions." *See* Pl. Motion at p. 1. Without additional details, Plaintiff's broad request does not reasonably indicate the scope of Plaintiff's proposed consolidation, the specific discovery to be consolidated, or what "pre-trial motions" Plaintiff seeks to have consolidated. Plaintiff's Motion also provides no suggestion as to how the requested consolidation would operate, either procedurally or as a practical matter. Consequently, Plaintiff's Motion does not permit a meaningful response.

5.

In view of the circumstances described above, Defendants respectfully request that this Court defer any ruling on Plaintiff's Motion to Consolidate so that the parties and Court may discuss any potential consolidation at the Status Conference. Defendants further request the opportunity to submit a further response to Plaintiff's "Motion to Consolidate," if necessary, in a timely fashion following the Status Conference.

This 17th day of May, 2006.

/s/ H. Thomas Wells, Jr.
H. Thomas Wells, Jr.
Alabama Bar No. WEL004
John A. Earnhardt
Alabama Bar No. EAR006
Counsel for Defendant Pactiv Corporation

OF COUNSEL:

MAYNARD, COOPER & GALE, P.C.
1901 Sixth Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, AL 35203
Tel: (205) 254-1000
Fax: (205) 254-1999
twells@maynardcooper.com
jearnhardt@maynardcooper.com

/s/ Dennis R. Bailey
Dennis R. Bailey
ASB No. 4845-I71D
R. Austin Huffaker
ASB NO. 3422-F55R

Counsel for Defendant Louisiana-Pacific
Corporation

OF COUNSEL:

RUSHTON, STAKELY, JOHNSON, & GARRETT, P.A.
184 Commerce Street
Post Office Box 270
Montgomery, AL 36101
Tel: (334) 206-3100
Fax: (334) 262-6277
drb@rsjg.com (Bailey)
rah2@rsjg.com (Huffaker)

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of May, 2006, I filed the foregoing via the CM/ECF system which will send notice of said filing to the following:

W. Eason Mitchell

Gregory A. Cade

Fred R. DeLeon

W. Lee Gresham, III

H. Thomas Wells, Jr.

John A. Earnhardt

E. Bryan Nichols

/s/ Dennis R. Bailey
Of Counsel